

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division

LAWRENCE R. THOMPSON, JR.,

Petitioner,

v.

NELSON SMITH, *Commissioner of the
Virginia Department for Behavioral
Health and Developmental Services,*

Respondent.

Case No. 2:24-cv-378

ORDER

Before the Court are four filings:

1. Petitioner Lawrence R. Thompson, Jr.'s Petition for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241 (ECF No. 1);
2. the Commissioner's Motion to Dismiss the Petition (ECF No. 7);
3. the petitioner's Motion for Judgment (ECF No. 10); and
4. a Report and Recommendation ("R&R") filed by the Honorable Robert J. Krask pursuant to 28 U.S.C. §§ 636(b)(1)(B) and (C), Fed. R. Civ. P. 72(b), and E.D. Va. Loc. Civ. R. 72 (ECF No. 12).

The R&R recommends this Court grant the Commissioner's Motion to Dismiss, deny and dismiss the Petition without prejudice based on failure to exhaust administrative remedies, and deny the Motion for Judgment. ECF No. 12 at 1, 7.

Judge Krask advised the parties of their rights to object to his findings and recommendations and explained that failure to timely object would result in a waiver

of appeal from a judgment of this Court based on such findings and recommendations. ECF No. 12 at 7–8 (citing *Thomas v. Arn*, 474 U.S. 140 (1985); *Carr v. Hutto*, 737 F.2d 433 (4th Cir. 1984); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984)). The time to file an objection has expired, and neither party objected to the R&R.

In the absence of a specific written objection, the Court may adopt a Magistrate Judge’s recommendations without conducting a *de novo* review, unless the recommendations are clearly erroneous or contrary to law. *See* Fed. R. Civ. P. 72(b)(2); *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982) (citations omitted); *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 316 (4th Cir. 2005).

The Court has reviewed Judge Krask’s findings and recommendations and found no clear error. Accordingly, the Report and Recommendation (ECF No. 12) is **ADOPTED**, the Motion to Dismiss (ECF No. 7) is **GRANTED**, the Petition for a Writ of Habeas Corpus (ECF No. 1) is **DENIED** and **DISMISSED WITH PREJUDICE**, and the Motion for Judgment (ECF No. 10) is **DENIED**.

Finding that the basis for dismissal of the § 2254 petition is not debatable, a certificate of appealability is **DENIED**. 28 U.S.C. § 2253(c); *see* Rule 11(a) of the Rules Gov. § 2254 Cases in U.S. Dist. Cts.; *Miller-El v. Cockrell*, 537 U.S. 322, 335–38 (2003); *Slack v. McDaniel*, 529 U.S. 473, 483–85 (2000).

The petitioner is **ADVISED** that because the Court has denied a certificate of appealability, he may seek a certificate from the United States Court of Appeals for the Fourth Circuit. Fed. R. App. P. 22(b); Rule 11(a) of the Rules Gov. § 2254 Cases in U.S. Dist. Cts. If the petitioner intends to seek a certificate of appealability from

the Fourth Circuit, he must do so within 30 days from the date of this Order. The petitioner may seek such a certificate by filing a written notice of appeal with the Clerk of the United States District Court, United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510.

The Clerk is **DIRECTED** to send a copy of this Order to the petitioner.

IT IS SO ORDERED.


/s/

Jamar K. Walker
United States District Judge

Norfolk, Virginia
July 1, 2025